

# **EXHIBIT 1**



BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

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DEPARTMENT OF THE TREASURY

# Laboratory Report

To: Master/Corporal Roger Cresto  
Wilmington Police Department  
300 North Walnut Street  
Wilmington, DE 19801

Date of Report: February 26, 2004  
Lab Number: 03N0862(1)  
Reference: 761035040017  
Title: Harry Smith  
Type of Exam: Firearms / Toolmark  
**AMENDED REPORT**

The evidence described below was received from Master/Corporal Roger Cresto (hand-carried) on November 17, 2003:

## EXHIBITS

- 1 - One Smith & Wesson, caliber .40 S&W semi-automatic pistol, model SW990, serial number SAF0327, with magazine
- 2 - One Smith & Wesson, caliber .40 S&W semi-automatic pistol, model SW990, serial number SAF0313, with magazine
- 3 - One Smith & Wesson, caliber .40 S&W semi-automatic pistol, model SW990, serial number SAF0139, no magazine submitted
- 4 - One Smith & Wesson, caliber .40 S&W semi-automatic pistol, model SW990, serial number SAF0071, with magazine
- ET 8 - One cartridge case
- HL1 - HL19 Nineteen (19) cartridge cases
- HL20 - One copper bullet jacket
- HL21 - HL24 Four (4) cartridge cases
- HL25 - One copper jacketed bullet
- HL26 - HL27 Two (2) cartridge cases
- HL29 - One copper jacketed bullet
- HL30 - HL32 Three (3) cartridge cases

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HL33 -	One bullet core
HL34 -	One copper bullet jacket
HL35 -	One copper jacketed bullet
HL36 - HL37	Two (2) copper bullet jackets
HL38 -	One copper jacketed bullet
HL39 -	One copper bullet jacket
HL40 - HL41	Two (2) cartridge cases
HL45 -	One copper bullet jacket
HL46 -	One bullet core
HL47A -	One copper bullet jacket
HL47B -	One bullet core
HL48 -	Two (2) metal fragments
HL49 -	One copper bullet jacket fragment
HL50 -	One copper jacketed bullet
HL52 -	One copper bullet jacket
HL53 -	One copper bullet jacket fragment
HL56 -	One lead fragment
HL58 -	One cartridge case
HL59 -	One metal fragment
HL60 -	One copper bullet jacket fragment
HL61 -	One copper jacketed bullet
HL62A -	One copper bullet jacket fragment
HL62B -	One copper bullet jacket and copper bullet jacket fragment

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HL63 - One copper jacketed bullet

HL63A - Three (3) metal fragments

HL65 - One copper jacketed bullet

HL65A - Two (2) metal fragments

HL66 - One copper jacketed bullet

HL67A - One bullet core

HL67B1 - One copper bullet jacket

HL67B2 - One bullet core

HL68 - One copper jacketed bullet

HL69 - One bullet core

HL70 - HL71 - Two (2) copper bullet jackets

HL72 - One copper fragment

HL73 - HL74 - Two (2) bullet cores

HL75 - One copper jacketed bullet

NOTE: Exhibits "HL47A-HL47B", "HL62A-HL62B", "HL63A", "HL65A" and "HL67A-HL67B2" were labeled "A", "B", and "B1-B2" by the examiner.

#### RESULTS OF EXAMINATION

Exhibits 1, 2, 3 and 4 were examined, found to function and test fired.

Exhibits ET3, HL2 through HL5, HL17 through HL19, HL30 through HL32, HL40 and HL41 consist of thirteen (13) caliber .40 S&W cartridge cases, Federal brand, which were identified as having been fired in the Exhibit 1 Smith & Wesson pistol bearing serial number SAF0327.

Exhibits HL25, HL34, HL37, HL39, HL47A, HL52, HL63, HL65, HL66 and HL67B1 consist of ten (10) caliber .40 S&W copper jacketed bullets or copper bullet jackets, which were identified as having been fired from the Exhibit 1 Smith & Wesson pistol bearing serial number SAF0327.

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Exhibits HL1, HL10, HL11, HL13 and HL16 consist of five (5) caliber .40 S&W cartridge cases, Federal brand, which were identified as having been fired in the Exhibit 2 Smith & Wesson pistol bearing serial number SAF0313.

Exhibits HL20, HL38 and HL75 consist of three (3) caliber .40 S&W copper jacketed bullets or copper bullet jacket which were identified as having been fired from the Exhibit 2 Smith & Wesson pistol bearing serial number SAF0313.

Exhibits HL6 through HL9, HL12, HL14, HL15, HL21 through HL24, HL26 and HL27 consist of thirteen (13) caliber .40 S&W cartridge cases, Federal brand, which were identified as having been fired in the Exhibit 3 Smith & Wesson pistol bearing serial number SAF0139.

Exhibits HL29, HL35, HL36, HL45, HL61, HL62B, HL68, HL70 and HL71 consist of nine (9) caliber .40 S&W copper jacketed bullets, copper bullet jackets or copper bullet jacket fragments, which were identified as having been fired from the Exhibit 3 Smith & Wesson pistol bearing serial number SAF0139.

Exhibit HL58 is a caliber .40 S&W cartridge case, Federal brand, which was identified as having been loaded into and extracted from the Exhibit 4 Smith & Wesson pistol bearing serial number SAF0071.

Exhibit HL50 is a caliber .40 S&W or 10mm copper jacketed bullet which was fired from a barrel rifled with five (5) grooves, right twist. This bullet lacks sufficient individual matching markings to identify or eliminate it as having been fired from the Exhibit 4 Smith & Wesson pistol bearing serial number SAF0071. Exhibit HL50 was not fired from the Exhibits 1, 2 or 3 Smith & Wesson pistol.


Exhibits HL33, HL46, HL47B, HL67A, HL67B2, HL69, HL73 and HL74 consist of eight (8) lead bullet cores, which are consistent with having separated from their jackets.

Exhibits HL49, HL53, HL60 and 62A consist of four (4) copper bullet jacket fragments. The degree of mutilation prevents further identification.

Exhibit HL48, HL56, HL59, HL63A, HL65A and HL72 consist of numerous metal fragments containing different metallurgical compositions. These fragments have no identifiable characteristics.

#### DISPOSITION OF EVIDENCE

Laboratory produced specimens (test fires) will be packaged with the original evidence and returned to the submitter.

  
Jodi E. Marsanopoli  
Firearms & Toolmark Examiner

REVIEWED BY:

  
Timothy J. Curtis  
Chief, Firearms Section

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This report, amended on February 26, 2004, notes the change on page 4, paragraph 2 from Exhibit number HL74 to HL75. This amendment does not affect the examination of results.

CC: Special Agent Patrick Fyock  
Bureau of Alcohol, Tobacco, Firearms and  
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